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8 JASON SMITH,
9 Plaintiff,
10 v.
11 M. ZAVALA, et al.,
12 Defendants.
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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17

18 Case No. 21-cv-03426 BLF (PR)
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20 **ORDER DENYING MOTION TO
COMPEL AS MOOT; GRANTING
MOTION FOR EXTENSION OF
TIME TO FILE OPPOSITION**
21

22 (Docket Nos. 13, 16, 17)
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25 Plaintiff, a state inmate, filed the instant *pro se* civil rights action pursuant to 42
26 U.S.C. § 1983 against prison staff at the Correctional Training Facility in Soledad
27 (“CTF”). Dkt. No. 1. The Court found the complaint stated cognizable claims and ordered
28 service on Defendants. Dkt. No. 6. Plaintiff filed a motion to compel, Dkt. No. 13, to
which Defendants filed a response, Dkt. No. 14. On May 23, 2022, Defendants file a
summary judgment motion. Dkt. No. 15. Plaintiff filed a motion for an extension of time
to file opposition, Dkt. No. 16, to which Defendants have stated their non-opposition, Dkt.
No. 18.

29 Plaintiff filed his motion to compel on April 21, 2022. Dkt. No. 13. He states that
he sent his discovery requests to Defendants on March 15, 2022. *Id.* at 2. According to
Defendants’ counsel, she served their response to Plaintiff on April 18, 2022. Dkt. No. 14-

1 at 2. Apparently, Plaintiff filed his motion to compel while Defendants' response was en
2 route. Defendants also assert that Plaintiff was ultimately provided with the information
3 that he requested. Dkt. No. 14 at 3. Subsequently, Plaintiff filed a request for an extension
4 of time to file opposition to Defendants' summary judgment; he makes no dispute therein
5 with regards to Defendants' response to his motion to compel. Dkt. No. 16. Accordingly,
6 it appears that Plaintiff's motion to compel is moot. The motion is DENIED. Dkt. No. 13.

7 Plaintiff also filed an "ex parte application for the certificate of service filed with
8 Defendants' motion for summary judgment," asserting that he never received a copy of
9 their motion. Dkt. No. 17. He also filed a motion for an extension of time to file an
10 opposition to Defendants' summary judgment motion. Dkt. No. 16. In response,
11 Defendants state that they discovered that due to a secretarial error, Plaintiff was never
12 served with their summary judgment motion. Dkt. No. 18 at 1-2. Defendants state that
13 they served a copy on June 16, 2022, as soon as they discovered the error. Dkt. No. 18-1
14 at 2. In light of their error, Defendants do not oppose Plaintiff's motion for an extension of
15 time. Dkt. No. 18 at 2. Good cause appearing, Plaintiff's motion for an extension of time
16 is GRANTED. Dkt. No. 16. Plaintiff's previous motion is DENIED as moot. Dkt. No.
17.

18 Plaintiff's opposition to Defendants' summary judgment motion shall be filed **no**
19 **later than twenty-eight (28) days** from the date this order is filed. Defendants' reply
20 shall be filed **no later than fourteen (14) days** from the date Plaintiff's opposition is filed.

21 This order terminates Docket Nos. 13, 16 and 17.

22 **IT IS SO ORDERED.**

23 **Dated: June 30, 2022**



BETH LABSON FREEMAN
United States District Judge

24
25 Order Denying Mot. to Compel; Granting EOT to file Opp.
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